

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-12-0020
PETITION TO ADD RULE 38(j),)
REGARDING ADMISSION TO THE)
STATE BAR OF ARIZONA)
)
)
)
) **FILED 08/30/2012**

ORDER
REOPENING PETITION FOR COMMENT

A petition having been filed proposing to add a new rule pertaining to admission of military spouses to the practice of law in Arizona, and comments having been received, upon consideration,

IT IS ORDERED that the attached draft amendment, which is based in part on the proposal made by the State Bar of Arizona in its comment, shall be opened for comment until November 9, 2012.

DATED this 30th day of August, 2012.

REBECCA WHITE BERCH
Chief Justice

TO:

Mary Reding

Katherine Barry

Erin Brockhoff

Mary T Scott

Christine Bacon Abramowitz

Elaine Rose O'Hara

Peter A Winkler

John Furlong

Hon. William J. O'Neill

Jim Drake

John Tuchi

Rachel Sacks Winkler

**ATTACHMENT:
DRAFT AMENDMENT**

Rule 38. Special Exceptions to Standard Examination and Admission Process

(a)-(h) [No change in text.]

(i) Military Spouse Temporary Admission.

1. *Requirements.* An applicant who meets the requirements of (A) through (L) of this paragraph (i)(1) (“Applicant”) may, upon motion, be admitted to the temporary practice of law in this jurisdiction. The Applicant shall:

- A. have been admitted by bar examination to practice law in another jurisdiction in the United States or territory;
- B. hold a juris doctor degree from a law school provisionally or fully approved by the American Bar Association at the time of graduation;
- C. submit evidence of achieving the passing score established in this jurisdiction for the Multistate Professional Responsibility Examination;
- D. establish that the Applicant is currently an active member in good standing in at least one jurisdiction where admitted, and establish that the Applicant is a member in good standing in all jurisdictions where admitted;
- E. establish that the Applicant is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any other jurisdiction;
- F. establish that the Applicant possesses the character and fitness to practice law in this jurisdiction;
- G. submit evidence that the Applicant has successfully completed the course on Arizona law described in Rule 34(j);
- H. submit evidence that the Applicant is a dependent spouse of a service member of the United States Uniformed Services as defined by the Department of Defense;
- I. submit evidence that the service member is on military orders in the State of Arizona;

J. submit evidence that the Applicant is living in Arizona due to the service member's military orders in this state;

K. submit character investigation information, in a manner established by the Court, including all required supporting documents.

L. not have failed the Arizona bar examination or failed to achieve the Arizona scaled score on the uniform bar examination administered within any jurisdiction within five years of the date of filing an application under this rule.

2. Duration and Renewal.

A. A temporary admission will be valid for one year from the date of issuance, unless terminated earlier pursuant to paragraph (5).

B. An attorney admitted under this rule may annually renew a temporary admission upon:

i. filing a written request for renewal;

ii. paying a \$300 application fee.

3. *Continuing Legal Education.* No later than six months following the attorney's temporary admission, the attorney shall certify completion of at least fifteen hours of continuing legal education on Arizona practice, procedure and ethics. The attorney shall also certify completion of at least fifteen hours of such continuing legal education during each year for which a temporary admission is renewed.

4. *Association of Local Counsel.* No attorney admitted under this rule may appear before any court, board or administrative agency of this state unless the attorney has associated in that cause an attorney who is a member in good standing of the State Bar of Arizona (hereinafter called local counsel). The name of local counsel shall appear on all notices, orders, pleadings, and other documents filed in the cause. Local counsel may be required to personally appear and participate in pretrial conferences, hearings, trials, or other proceedings conducted before the court, board, or administrative agency when the court, board, or administrative agency deems such appearance and participation appropriate. Local counsel associating with an attorney admitted under this rule in a particular cause shall accept joint responsibility with that attorney to the client, to opposing parties and counsel, and to court, board, or administrative agency in that particular cause.

5. Termination.

A. A temporary admission shall terminate, and an attorney admitted under this rule shall immediately cease the practice of law in Arizona unless otherwise authorized by these rules, upon:

- i. the spouse's separation or retirement from the United States Uniformed Services;
- ii. failure to meet the annual licensing requirements of an active member of the State Bar of Arizona;
- iii. permanent relocation outside the state of Arizona; or
- iv. the attorney ceasing to be a dependent as defined by the Department of Defense (or, for the Coast Guard when it is not operating as a service in the Navy, by the Department of Homeland Security).

B. A temporary admission shall also terminate upon:

- i. request by the attorney;
- ii. the attorney being admitted to practice law in this state under an admissions rule other than that for temporary admission;
- iii. the attorney failing to achieve the Arizona scaled score on the uniform bar examination administered within any jurisdiction;
- iv. the attorney being denied admission to the practice of law in Arizona for violating ethical rules;
- v. notice by the Supreme Court at any time, provided that the Clerk of the Supreme Court shall mail a copy of the notice of termination to the attorney and associated local counsel;
- vi. notice to the State Bar of Arizona, required within 30 days, of:
 - a. the spouse's separation or retirement from the United States Uniformed Services;
 - b. the spouse's permanent relocation to another jurisdiction, unless the service member spouse's immediately subsequent assignment specifies that the Department of Defense does not authorize dependents to accompany the service member; or

c. the attorney ceasing to be a dependent as defined by the Department of Defense (or, for the Coast Guard when it is not operating as a service in the Navy, by the Department of Homeland Security).

C. Upon termination of the temporary admission, the attorney shall immediately:

i. file in each matter pending before any court or tribunal a notice that the attorney will no longer be involved in the case; and

ii. advise all clients receiving representation from the attorney that the attorney will no longer represent them.

6. *Benefits and Responsibilities of Temporary Admission.* An attorney admitted under this rule shall be entitled to the benefits and responsibilities of active members of the State Bar of Arizona, and shall be subject to the jurisdiction of the courts and agencies of the State of Arizona and to the State Bar of Arizona with respect to the laws and rules of this state governing the conduct and discipline of attorneys to the same extent as an active member of the state bar.